

## **REMARKS**

Claims 1 and 5 have been amended. Claims 1-5 remain pending in this application.

### **Specification**

The specification has been amended on pages 11 and 12 to correct inadvertent errors in the description of the views of Figs. 1, 2 and 2. No new matter has been added by the amendments to the specification.

### **Claim rejections under 35 USC §112**

Claims 1-5 stand rejected under 35 USC 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claim 1 has been amended to recite that the left rear side section of the cab is provided with two catch members, as suggested by the Examiner. It is submitted that the claims now meet all the requirements of 35 USC 112, second paragraph.

### **Claim rejections under 35 USC §103**

Claims 1, 2 and 4-5 stand rejected under 35 USC 103(a) as being unpatentable over JP 11-100864 to Tanaka Hisao in view of USP 6,502,896 to Nakata et al.

Claim 3 stands rejected under 35 USC 103(a) as being unpatentable over JP 11-100864 to Tanaka Hisao as modified by USP 6,502,896 to Nakata et al. in view of USP 6,669,272 to Ayabe et al.

For the reasons set forth hereafter, it is submitted that the claims patentably distinguish over the prior art.

### **Patentability of the Claims**

Applicants' invention relates to a folding type door for the cab of a construction machine such as an excavator wherein the door is comprised of two flexibly or hingedly connected door panels. Each door panel is provided with a holder member which engages a catch on a left rear side section of a cab when the folding type door is opened. Accordingly, Applicants' invention has two holder members each of which engages a separate catch member to prevent the folding type door from rattling when in an open position. As discussed hereafter, each of the cited prior art references only disclose a folding door with one catch member and one holder member.

The cited Hisao patent discloses a rotatable working machine having a cabin 12 mounted on a revolving frame 8, and having a foldable openable and closeable door 32 with a forward panel hinged to a rear panel on an opening 31 formed in a left side of the cabin 12. The door 32 is provided with a pair of door panels 34, 35. An engaging member 41 is provided on a forward door panel 35, while a locking mechanism 40 is provided on the outer side face of the cabin 12. Thus, Hisao discloses a construction having only one mechanism to keep the door 32 in a fully opened position by engaging the engaging member 41 forward on a panel door panel with the locking mechanism 40.

The Nakata patent discloses a working vehicle comprising an openable and closeable door 32 constructed of only a single panel for an opening 31 of a cabin 12.

A single lock element 36 is provided on the door 32, while a single locking device 41 is provided on a side panel 37 of the cabin 12. Therefore, the Nakata patent only discloses a construction to keep the door 32 in a fully opened position by engaging one locking element 36 with one locking device 41.

The present invention is directed to a problem peculiar to a folding type door comprising a pair of door panels. A problem with the folding type door having a pair of door panels is that the panels easily rattle when the door is kept in a fully opened position.

The Ayabe patent discloses a foldable door having front and rear door portions 15a, 15b connected by hinges 24 in Fig. 10(a), which is provided on the left side of a cabin 8. Further, Ayabe discloses the hinges 24 being covered by an elastic sealing member 27 on the outside thereof.

The current invention solves a problem peculiar to a folding type door comprising a pair of door panels. Thus, the current invention was developed for the problem of the folding type door which comprises a pair of door panels, panels which easily rattle when the door is kept in a fully opened position. None of the cited, Hisao et al. JP 11-100864, Nakata et al. USP 6,502,896 and Ayabe et al. USP 6,669,272 references disclose or even discuss this problem.

The current invention features a folding type door provided with two catch members and two holder members. Thus, in the current invention, it is possible to prevent the folding type door from rattling when keeping the folding type door in a fully opened position. The current invention, moreover, acts to prevent the hinges from deterioration as well as noise caused by rattling.

As discussed above, all of the references, Hisao et al., Nakata et al., and Ayabe et al., only disclose a folding type door with one catch member and one holder member. The catch member and holder member of these cited references only are adapted to keep the door in a fully opened position, and do not focus on the problem of a folding type door which rattles.

Thus, even if the folding type door in any of these references is comprised of a pair of door panels, there is no teaching or suggestions of providing a catch member and a holder member on each of these door panels.

In summary, none of the references cited provided a motivation to achieve a construction of folding type door providing two catch members and two holder members. Thus, even if these references are combined, they do not achieve or even suggest the construction of Applicants' invention of a folding type door having two catch members and two holder members.

Claims 1-5 are therefore patentable.

## CONCLUSION

In view of the foregoing amendments and remarks, Applicants contend that the above-identified application is now in condition for allowance. Accordingly, reconsideration and reexamination are respectfully requested.

To the extent necessary, Applicants petition for an extension of time under 37 CFR 1.136. Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, or credit any overpayment of fees, to the deposit account of Mattingly, Stanger, Malur & Brundidge, P.C., Deposit Account No. 50-1417 (referencing attorney docket no. H&C-5244).

Respectfully submitted,

MATTINGLY, STANGER, MALUR & BRUNDIDGE, P.C.

A handwritten signature in cursive script, reading "Gene W. Stockman", is written over a horizontal line.

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